

RECEIVED

FILED



2005 AUG 26 PM 3: 54

IDAHO PUBLIC
UTILITIES COMMISSION

Dean J. Miller
McDEVITT & MILLER LLP
420 West Bannock Street
P.O. Box 2564-83701
Boise, ID 83702
Tel: 208.343.7500
Fax: 208.336.6912
joe@mcdevitt-miller.com

Attorneys for Level 3 Communications, LLC

ORIGINAL

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF LEVEL 3
COMMUNICATIONS, LLC'S PETITION
FOR ARBITRATION PURSUANT TO
SECTION 252(B) OF THE
COMMUNICATIONS ACT OF 1934, AS
AMENDED BY THE
TELECOMMUNICATIONS ACT OF 1996,
AND THE APPLICABLE STATE LAWS FOR
RATE, TERMS, AND CONDITIONS OF
INTERCONNECTION WITH QWEST
CORPORATION

Case No. QWE-T-05-11

**MOTION TO COMPEL
RESPONSES TO FIRST SET OF
INTERROGATORIES AND
MEMORANDUM IN SUPPORT**

COMES NOW Level # Communications, Inc., ("Level 3") by and through its attorneys and pursuant to IPUCRP 221 *et. seq.* moves the Commission for an order compelling Quest Corporation ("Qwest") to provide proper responses to Level 3's First Set of Interrogatories filed on June 3, 2005. More specifically, Level 3 moves for an order compelling Qwest to fully respond to.

As a preliminary matter, Level 3 respectfully requests expedited consideration of this motion. Level 3 requests expedited consideration in order to receive supplemental responses before rebuttal testimony is due on September 16, 2005

**MOTION TO COMPEL RESPONSES TO FIRST SET OF INTERROGATORIES AND MEMORANDUM
IN SUPPORT - 1**

I. Procedural Background

After a year of negotiations with Qwest, Level 3 filed a Petition for Arbitration on June 3, 2005, seeking resolution of, among other things, four basic interconnection rights:

- Issue 1: Whether each Party bears its own costs of exchanging traffic at a single Point of Interconnection per LATA.
- Issue 2: Whether Level 3 may exchange all traffic over the interconnection trunks established under the Agreement.
- Issue 3: Whether Qwest's election to be subject to the ISP-Remand Order for the exchange of ISP-bound traffic requires Qwest to compensate Level 3 for ISP-bound Traffic at the rate of \$0.0007 per minute of use.
- Issue 4: Whether Qwest and Level 3 will compensate each other at a rate of \$0.0007 per minute of use for the exchange of IP enabled or Voice over Internet Protocol traffic.

On August 3, 2005, the Commission issued Procedural Order No. 29819 which established the following procedural schedule:

August 12, 2005	Simultaneous Direct Testimony
August 26, 2005	Discovery Requests Re: Direct Testimony
September 6, 2005	Discovery Responses
September 16, 2005	Simultaneous Rebuttal Testimony
September 27, 2005	Final Prehearing Conference
October 4-6, 2005	Hearings
October 21, 2005	Post-Hearing Briefs
November 10, 2005	Arbitrator's Initial Decision
November 28, 2005	Objections to Initial Decision
December 5 or 6, 2005	Oral Argument to Commission
December 30, 2005	Commission Decision

II. Standards

Discovery procedures before the Commission are governed by IPUCRP 221 *et. seq.* Unless otherwise provided discovery is guided by the Idaho Rules of Civil Procedure. Parties may obtain discovery regarding any matter, not privileged, that appears reasonably calculated to lead to the discovery of admissible evidence relevant to the subject matter involved in the pending action. IRCP 26(b)(1). It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably likely to lead to the discovery of admissible evidence. *Id.*

Both the Commission's rules and the Idaho Rules of Civil Procedure authorize comprehensive pretrial discovery and are intended to facilitate and simplify the issues and avoid surprises at trial. As demonstrated below, Level 3 seeks information that is either directly relevant to the disputed issues in this docket or could reasonably lead to the discovery of admissible evidence. Qwest's refusal to respond to Level 3's legitimate discovery requests is contrary to this Commission's rules and Idaho law, and has prejudiced Level 3's ability to properly prepare for hearing. Unless this Motion is granted, Qwest's failure to provide sufficient responses will also deprive the Commission of the ability to make an informed decision based on all relevant facts in this proceeding.

III. Argument

The issues in this arbitration go to the core of Level 3's ability to offer technologically-innovative and cost-effective services on competitive terms, and to make efficient use of its network without the imposition of legacy obligations and costs. Level 3's Data Requests are intended to gather information that will support Level 3's argument that Qwest is attempting to force Level 3 into one-sided interconnection requirements designed to offset Qwest's loss of toll

revenues due to wider adoption of broadband and other technologies, including Level 3's Internet protocol. Qwest's objections to these requests are meritless, and its failure to provide adequate responses threatens Level 3's ability to draft testimony and prepare for trial.

Accordingly, Level 3 respectfully requests that the Commission grant this motion and order Qwest to respond to these requests immediately.

A. Data Request No. 4—Qwest Internet Access Service

Level 3's Data Request No. 4 asks the following:

Does Qwest have an affiliated Internet Service Provider ("ISP") that offers Internet access services in the state? If so, please identify the affiliates, and state the number of end user and wholesale customers in the state for each Qwest ISP affiliate?

- a. Please identify each telephone company end office in the state in which Qwest affiliate ISP has collocated equipment such as modem banks, DSL equipment, routers, ATM switches or other equipment. Please identify the telephone company that owns/operates each such end office.
- b. Please list each local calling area within the state in which the affiliate maintains a physical presence.

Qwest responded with the following objection on July 7, 2005:

Qwest objects to the request that it "state the number of end user and wholesale customers in the state for each Qwest ISP affiliate" on the basis that the information requested constitutes a trade or business secret and is highly confidential and proprietary. Qwest further objects that the information requested is not relevant and that it does not appear the request is reasonably calculated to lead to the discovery of admissible evidence.

Notwithstanding its objections, Qwest responds that two of its affiliates offer internet access services in Idaho: Qwest Communications Corporation and Qwest Enterprise America, Inc.

Qwest's objections are unfounded. First, Qwest's confidentiality objections are moot because the parties have signed a Protective Agreement in this docket specifically for the purpose of facilitating the exchange of confidential and competitively-sensitive business information.

Second, Qwest's objection on the grounds that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence is, without more, insufficient as a matter of law. More importantly, this objection is factually incorrect. Level 3's Data Request No. 4 is indeed relevant to Issue 3 in the Petition and to whether the geographic location of the ISP is relevant to the compensation exchanged by the parties for the transport and termination of ISP-bound traffic. Level 3 contends that the jurisdiction of calls should be determined by the NPA-NXX, in accordance with the long-standing industry practice. Qwest, on the other hand, is attempting to rate traffic based upon the physical location of the customers, not the NPA-NXX. Request No. 4 is intended to elicit information that will assist Level 3 in rebutting Qwest's position.

Finally, Qwest's response is not responsive to the request, Qwest ignored the questions arbitrarily offered the name of two Qwest affiliates providing Internet access in Idaho. Request No. 4 seeks end office and local calling area information, not the names of the Qwest affiliates that provide Internet access service.

B. Data Request Nos. 11 and 5(e)—Qwest's VoIP Service

Level 3's Data request No. 11 provides:

Please provide the total number of VoIP customers Qwest has in the State as of May 1, 2005. How many VoIP terminals does that number represent?

Qwest responded to this request as follows:

Qwest objects to this request on the basis that the information sought constitutes a trade or business secret and is highly confidential and proprietary to Qwest or its affiliates. Qwest further objects that the information requested is not relevant. Furthermore, it does not appear the request is reasonably calculated to lead to the discovery of admissible evidence.

Qwest's objections are without merit. First, as discussed about, the Commission has issued a Protective Order in this proceeding. Accordingly, Qwest's confidentiality and trade secret arguments are moot. Second, Qwest's general objections that the request seeks irrelevant information is not reasonably calculated to lead to the discovery of admissible evidence are,

without more, insufficient as a matter of law. Moreover, Request No. 11 is indeed relevant to Disputed Issue 4—whether Qwest and Level 3 will compensate each other at the rate of \$0.0007 per minute-of-use for the exchange of IP enabled or Voice over Internet Protocol (“VOIP”) traffic. Level 3 contends that VoIP traffic is not subject to access charges. Qwest seeks to impose access charges on certain VoIP traffic. The information requested in Request No. 11 is necessary to demonstrate the impact that Qwest’s VoIP proposal will have on Level 3. Qwest should be required to respond to Request No. 11.

Level 3’s Data Request No. 5(e) provides:

Does Qwest purchase any wholesale VoIP services from any other provider? If so, please name the provider(s) and the state(s) in which service(s) is/are purchased.

Qwest responded to this request as follows:

Qwest objects to this subpart to the extent that it seeks information concerning Qwest’s purchases of services outside the state of Idaho and outside the 14-state territory in which Qwest operates as an incumbent LEC. This request is overly broad and burdensome and seeks information and that is irrelevant. Furthermore, the subpart does not appear to be reasonably calculated to lead to the discovery of admissible evidence.

Qwest’s objections fail. First, Qwest has provided no authority for the proposition that discovery is limited in scope to the state of Idaho. As discussed above, Section 251(c) of the Telecommunications Act requires ILECS to provide interconnection on a nondiscriminatory basis. The information sought by Level 3 is critical to determining whether Qwest’s proposals in this arbitration discriminate against Level 3 relative to the manner in which Qwest interconnects with itself, its affiliates, and other carriers throughout its service territory. At a minimum, Qwest should be compelled to respond with Idaho-specific data. Second, for the reasons given above, Qwest’s objection that the request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, without more, is legally insufficient.

There is no legal basis for limiting the scope of Level 3’s discovery to interconnection by Qwest with other CLECs and its affiliates and subsidiaries within this state and preventing discovery regarding Qwest’s interconnection with these same parties in other jurisdictions. IF

Qwest is providing more favorable and, hence, discriminatory interconnection to any other CLEC or to Qwest's affiliate or subsidiary anywhere, not just in the state where an arbitration is occurring, such discrimination is directly relevant to the issue of whether, in this proceeding, Qwest is providing nondiscriminatory access to Level 3 in compliance with its obligations under Section 251(c)(2) of the Telecommunications Act of 1996 ("Act").

Section 251 of the Act and the FCC's rules governing interconnection compel an analysis of Qwest's interaction with other CLECs and its affiliates and subsidiaries beyond the boundaries of any particular state. Section 251(c)(2) is unequivocal. ILECs must provide interconnection that is "equal in quality to that provided...to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection."¹ ILECs must also offer "rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with...the requirements of this section and section 252."² Thus, ILECs cannot offer interconnection to one CLEC on more favorable terms or conditions than it offers any other CLEC.³ In addition, the ILEC cannot favor its affiliates or subsidiaries with more favorable terms and conditions of interconnection than it offers to CLECs. To allow an ILEC to avoid the nondiscrimination obligations outlined in the Act would undermine the most fundamental principles in the Act: putting CLECs on equal footing with each other and the ILECs.

As the FCC noted in the *Non-Accounting Safeguards Order*:

A BOC may have an incentive to discriminate in providing exchange access services and facilities than its affiliate's rivals need to compete in the interLATA telecommunications services and information services markets. For example, a BOC may have an incentive to degrade services and facilities furnished to its affiliate's rivals, in order to deprive those rivals of efficiencies that its affiliate enjoys. Moreover, to the extent carriers offer

¹ 47 U.S.C. § 251(c)(2)(C).

² 47 U.S.C. § 251(c)(2)(D).

³ This conclusion is reinforced by the requirements of section 252(i) of the Act which provides that a local exchange carrier must make any interconnection provided under an agreement approved under the Act to which it is a party available to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

both local and interLATA services as bundled offering, a BOC that discriminates against the rivals of its affiliates could entrench its position in local markets by making these rivals' offerings less attractive.⁴

This is the very reason the nondiscrimination obligation applies to affiliates and subsidiaries.⁵

Moreover, the nondiscrimination obligation applies without regard to the geographic boundaries. The law does not limit the nondiscrimination obligation to within the borders of any particular state. Thus, the interconnection Qwest provides to other CLECs or to its affiliates or subsidiaries outside of Colorado is just as critical to ascertaining whether Qwest is offering nondiscriminatory interconnection to Level 3 as the interconnection Qwest provides within a particular state. Both sets of information are relevant to Qwest's compliance with its legal nondiscrimination obligation. Level 3's discovery on Qwest's interconnection with other CLECs and its affiliates and subsidiaries should be permitted and not in any way limited by irrelevant and artificial geographic boundaries. To do otherwise, would completely undermine the nondiscrimination obligation set forth in Section 251(c)(2).

The FCC's rules regarding interconnection provide further guidance on this issue. Rule 51.305(c) and (d) require that evidence of interconnection at a particular point in a network (or at a particular level of quality), using particular facilities, constitutes substantial evidence that interconnection is technically feasible at that point, or at substantially similar points in networks employing substantially similar facilities.⁶ In other words, the FCC rules do not limit the

⁴ See *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 21913 (1996) ("Non-Accounting Safeguards Order").

⁵ See also *Chase 3000 v. Nebraska Public Service Commission, et al.*, Case No. C104-4167, District Court of Lancaster County, Nebraska, dated June 29, 2005 (State commission has jurisdiction to regulate noncompetitive and discriminatory activity between regulated and nonregulated affiliates pursuant to the Telecommunications Act of 1996 and failure to do so would frustrate the purpose of the Act.

⁶ 47 C.F.R. §51.305(c) and (d).

examination of the interconnection an ILEC is permitting to the ILEC's territory, the particular state in which the interconnection issue arises, or to any particular geographic area. What is relevant is *whether* such interconnection is accomplished with ILEC, not *where* it occurs. Therefore, information about Qwest's networks nationwide is relevant to determining whether Qwest's interconnection proposals are discriminatory when compared to Qwest's relationships with its affiliates. Accordingly, this Commission should not limit the scope of discovery in Idaho.⁷

C. Requests Nos. 12, 13, 14, 15, 16, 17, 19—Efficient use of Trunk Groups

Request Nos. 12, 13, 14, 15, 16, 17, and 19 seek the following information: the use of combined trunk groups by Qwest and Qwest affiliates; the imposition of separate trunking obligations upon other CLECs by Qwest; the use of traffic apportionment factors, such as percent interstate usage (PIU) and percent local usage (PLU), by Qwest or any other LEC that delivers traffic to Qwest; and Qwest's knowledge regarding any state commissions that have required separate trunk groups. Qwest made a variety of objections, but not are sufficient to justify Qwest's failure to respond. Specifically, Qwest objected that these requests are generally overly broad, unduly burdensome, seek information that is not relevant, seek information about Qwest's affiliates and seek information that the affiliate may consider proprietary, and request that Qwest

⁷ 47 C.F.R. §51.305(c)(8) (In the context of the interconnection negotiations [and arbitrations], ILECs have a duty to provide information necessary to reach an agreement, but the rule does not restrict that duty to specific geographic areas or based upon jurisdictional lines). *See also In the Matter of Implementation of the Local Competition Provision of the Telecommunications Act of 1996*, CC Dkt. No 96-98, First Report and Order, 11 FCC Rcd. 15433, ¶ 204, 205 (rel. August 8, 1996) ("*Local Competition Order*"). (**"Incumbent LECs must prove to the appropriate state commission that interconnection or access at a point is not technically feasible. Incumbent LECs possess the information necessary to assess the technical feasibility of interconnecting to particular LEC facilities. Further, incumbent LECs have a duty to make available to requesting carriers general information indicating the location and technical characteristics of incumbent LEC network facilities. Without access to such information, competing carriers would be unable to make rational network deployment decision and could be forced to make efficient use of their own and incumbent LEC facilities, with anticompetitive effects."**) (Emphasis added.)

identify individual wholesale customers and disclose information that such customers may consider proprietary. Additionally, Qwest objected that the requests seek information about states other than Idaho and are overly broad because they include states in which Qwest is not the incumbent LEC.

For the reasons given above, Qwest's general objections that these requests are overly broad, unduly burdensome, and seek information that is not relevant, without more, are legally insufficient. This information that is not relevant, without more, are legally insufficient. Issue No. 2 involves whether Level 3 may exchange all traffic over the interconnection trunks established under the Interconnection Agreement. Level 3 seeks to use its existing trunk groups to exchange all traffic with Qwest, as it has done for many years. Qwest seeks to limit Level 3's ability to use trunks efficiently and to force Level 3 to build an inefficient network that mirrors Qwest's legacy network. Qwest seeks to do this by forcing Level 3 to establish separate Feature Group D trunks to transmit traffic Qwest contends is "toll" traffic and other traffic that Qwest admits cannot be accurately rated, but nevertheless contends should be assessed access rates. Information related to Qwest's current practices, the practices of its affiliates, and the obligations imposed on CLECs with whom Qwest exchanges traffic is central to understanding and rebutting Qwest's position in these proceedings. This information will assist Level 3 in drafting its rebuttal testimony and preparing for hearings, and will be helpful to the Commission in reaching a decision on the matter.

As discussed above, the Parties have signed a Protective Agreement in this proceeding. Accordingly, Qwest's confidentiality and trade secret arguments are moot. Moreover, Qwest has made no showing that the information is proprietary to its customers as asserted in its objections. Qwest simply speculates that the information "may" be considered proprietary. This is not sufficient to overcome the heavy burden that rules promoting broad discovery place upon the party objecting to discovery.

Additionally, as discussed above, Qwest cites no authority to support the proposition of information regarding its affiliates and information about its business activities outside of Idaho

are not within the realm of discovery. This information is material to these proceedings. Section 251(c) of the Act requires incumbent LECs, such as Qwest, to provide nondiscriminatory access to interconnection. The information sought by Level 3 is critical to assessing whether Qwest's proposals in this arbitration discriminate against Level 3 relative to the manner in which Qwest provides interconnection to itself, its affiliates, and other carriers throughout its service territory. For example, to the extent that, in Idaho or elsewhere, Qwest has not required its affiliates or other CLECs to separate traffic onto different trunks and has employed PIUs, PLUs, or some other traffic allocation factor to rate traffic, or has itself asserted its right to commingle traffic on trunk groups, such information is directly relevant to Level 3's ability to rebut Qwest's imposition of separate trunking requirement on Level 3 and bears directly on whether Qwest's proposal is discriminatory.

Furthermore, Qwest did not even provide information for Idaho. Given the fact that Qwest's other objections to these requests are baseless, at a minimum Qwest should be required to respond with Idaho specific data.

For the foregoing reasons, Level 3 respectfully requests that the Commission order Qwest to respond to Request Nos. 12, 13, 14, 15, 16, 17, and 19.

D. Request No. 19 – Efficient Use of Trunk Groups

Level 3's Data Request No. 19 provides:

Please state whether Qwest is aware of any state commission that has required separate trunk groups for transit traffic. If your answer is anything other than an unqualified "no," please identify each state that Qwest believes had required separate trunk groups for transit traffic and provide a complete citation to such order.

Qwest responded to this requests as follows:

Qwest objects to this request on the basis that the term "transit traffic" may be ambiguous.

The term to which Qwest objects, "transit", is widely understood within the industry to refer to the carriage of traffic that is rated as "local" (or otherwise considered "local") between

three interconnecting LECs. Even assuming Level 3's definition of transit was somehow different, Qwest could easily explain – as it has done in many other requests – the assumptions under which it answers the question. Accordingly, Level 3 requests that the Commission order Qwest to respond to Request No. 19.

E. Request Nos. 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31 – Qwest's FX and FX-Like Services

Request Nos. 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31 seek information regarding Qwest services that Qwest considers to be FX or FX-like. Specifically, if Qwest offers FX-like services, these requests seek service identifications and product descriptions, the number of customers and lines in Idaho, the length of time that the service has been offered, the number of ISPs who purchase the service, whether Qwest has billed or received reciprocal compensation or other terminating compensation for calls received from Qwest's FX or FX-like customers and details regarding such billings, and whether Qwest has paid access charges to the originating carrier for calls originated by another carrier and terminated to a Qwest FX or FX-like customer. (*See Chart 2 for a complete recitation of these requests and Qwest's objections and responses*).

Qwest objects to these requests on the grounds that they seek information from beyond Oregon, seek publicly available information that Level 3 could obtain from Qwest's tariffs/catalogs, seek trade secret or confidential information, are overly broad, are unduly burdensome, and are not reasonably calculated to lead to the discovery of admissible evidence. With regard to Request No. 22 and 24, Qwest also objects that the requests relate to information about the business purposes of its customers that Qwest does not retain, and that such information may be proprietary to its customers. Qwest's objections have no merit and should be rejected.

For the reasons given above, Qwest's objections that the requests seek information from outside of Idaho fail. In addition, rather than providing Oregon-specific information, Qwest simply states that the Commission discontinued FX service in Idaho in 1983, with certain customers grandfathered. Qwest does not state whether it still serves any of these grandfathered

customers, nor does Qwest provide any further information about those services. At a minimum, Qwest should be compelled to provide information about its grandfathered customers in Idaho.

Qwest's claim that this information regarding FX-like services is available to Level 3 in Qwest's tariffs and catalogs is not a valid objection because Level 3 has no idea which services Qwest considers FX-like. Qwest must make this determination and provide information that it considers responsive. In addition, Qwest is much more familiar with the content of its tariffs and catalogs than Level 3, and it would be significantly easier for Qwest to compile the requested information. Qwest must be required to produce information pursuant to these requests about services that it considers to be FX-like.

Qwest's objection that the requests seek information that is confidential or protected as a trade secret is nullified by the Protective Agreement discussed above.

For the reasons given above, Qwest's general objection that the requests are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, without more, is not legally sufficient.

With respect to Request Nos. 22 and 24, Qwest's objection that its does not retain information about the business purposes of its customers is off point. It is clear from the plain terms of Request Nos. 22 and 24 that they do not request information regarding the business purposes of these Qwest customers.⁸

Qwest's objection that such information may be proprietary to its customers is rendered moot by the Protective Agreement in this docket. Furthermore, Qwest has made no affirmative showing that the information is proprietary; rather they simply speculate that it may be. This is not sufficient to overcome the heavy burden placed upon the party objecting to discovery.

F. Request Nos. 41 and 43 – POIs and Other Facility Connections in Oregon.

Request No. 41 seeks the following information:

How many physical POIs exist in Idaho between Qwest and CLECs?

⁸ Exhibit A at 13-14.

Request No. 43 seeks the following information:

How may CLECs in Idaho connect to Qwest's network by means of (a) Qwest-supplied entrance facility running between Qwest's network and a CLEC switch; (b) CLEC-supplied facility delivered to Qwest's network at or near a Qwest central office building; or (c) some other means?

Qwest provided the same response to both requests:

Qwest objects to this request on the basis that it is unreasonably burdensome and that response would require a special study. Qwest further objects that the request does not appear to be reasonably calculated to lead to the discovery of admissible evidence.

These objections, without more, are legally insufficient for the same reasons given above. Moreover, the objections are not supported by the facts. The information requested in Request Nos. 41 and 43 is indeed reasonably calculated to lead to the discovery of admissible evidence relevant to Issue 1 in the Petition regarding the points of interconnection per LATA that may be allowed under the Interconnection Agreement. It is also important for Level 3 to understand which points of interconnection Qwest considers to be POIs under Qwest's interpretation of the law and which ones Qwest believes do not qualify. Given the importance of this information to the issues in this case, Qwest should be required to comply.

IV. CONCLUSION

Level 3 understands that discovery is extensive in this proceeding due to the numerous complex issues on the table, and that the timelines for responses are necessarily short. Level 3 faces the same difficulties as Qwest in this proceeding, and arguably has even fewer resources than Qwest in which to deal with the large number of discovery requests and tight deadlines. Level 3 now finds itself in the position of having to dedicate limited resources and time to prepare and file this motion in order to get Qwest to do what it is obligated by law and Commission rule to do. Level 3 has been substantially prejudiced by Qwest's failure to comply,

and respectfully requests that the Commission issue an order by August 5, 2005, requiring Qwest to immediately provide full and proper responses to Level 3's discovery requests

DATED this 1st day of July, 2005.

Respectfully submitted,

MCDEVITT & MILLER LLP



Dean J. Miller

McDevitt & Miller LLP

420 W. Bannock

Boise, ID 83702

Phone: (208) 343-7500

Fax: (208) 336-6912

Counsel for Level 3 Communications, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 2005, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

Jean Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P.O. Box 83720
Boise, ID 83720-0074
jjewell@puc.state.id.us

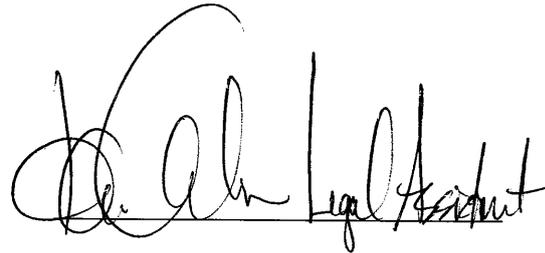
Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

Mary S. Hobson
STOEL RIVES LLP
101 S Capitol Boulevard - Suite 1900
Boise, ID 83702-5958
Telephone: (208) 389-9000
Facsimile: (208) 389-9040
mshobson@stoel.com

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

Thomas M. Dethlefs
Senior Attorney
Qwest Services Corporation
1801 California Street - 10th Floor
Denver, CO 80202
Telephone: (303) 383-6646
Facsimile: (303) 298-8197
Thomas.Dethlefs@qwest.com

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email



[Handwritten Signature]
Legal Assistant